

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

Acknowledged

TWP

October 6, 2011

SIMON PROPERTY GROUP, L.P.)
a Delaware limited partnership,)
)
)
Plaintiff,) Civil Action No. 1:11-cv-0527-TWP-DML
)
)
v.)
)
NORTHMOBILETECH, LLC,)
)
)
Defendant.

PLAINTIFF'S NOTICE OF DISMISSAL

PLEASE TAKE NOTICE that Plaintiff Simon Property Group, L.P. (“SPG”), pursuant to Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure, hereby dismisses this action without prejudice.

Plaintiff brought this action seeking a declaration that U.S. Patent No. 7,805,130 (“the ‘130 patent) is invalid or, alternatively, not infringed by SPG. [Dkt. 1.] After Simon filed its complaint, Defendant NorthMobileTech LLC (“NMT”) filed a separate complaint in the Western District of Wisconsin alleging infringement of the ‘130 patent (“Wisconsin Action”). SPG sought dismissal and/or transfer of the Wisconsin Action to the Southern District of Indiana. NMT opposed, arguing that the Southern District of Indiana did not have jurisdiction as to it. On these grounds, NMT also filed a motion to dismiss SPG’s complaint in this action pursuant to Rule 12(b)(2). [Dkt. 21, 23.] To assess SPG’s arguments, this Court granted SPG leave to conduct expedited jurisdictional discovery. [Dkt. 37.] The parties completed that discovery, finalized their briefing regarding the jurisdictional issues [Dkt. 38, 39], and have been awaiting the Court’s ruling.

In the meantime, however, the Wisconsin Action moved forward, as the Western District of Wisconsin would not stay any deadlines (other than those relating to SPG's requests for dismissal and/or transfer) while the jurisdictional questions were being addressed. The parties have now briefed several motions, submitted their claim construction positions and have begun the discovery process. As a result, SPG believes that dismissing and/or transferring the Wisconsin Action at this juncture would only cause unnecessary delay and require both this Court and the parties to duplicate significant efforts already undertaken in the Wisconsin Action. Accordingly, in the interest of judicial economy, SPG hereby dismisses its Complaint here (without prejudice).

Date: October 3, 2011

By: /s/ Michael R. Limrick

Daniel L. Boots
Michael R. Limrick
Nathan L. Lundquist
Bingham McHale LLP
2700 Market Tower
10 West Market Street
Indianapolis, IN 46204
317.635.8900
317.236.9907 (facsimile)

Timothy J. Carroll
Matthew F. Carmody
Steven M. Lubezny
Loeb & Loeb LLP
321 N. Clark Street, Suite 2300
Chicago, IL 60654

Admitted Pro Hac Vice

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of October, 2011, a copy of the foregoing was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system.

Holiday W. Banta
Woodard, Emhardt, Moriarty,
McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137
hbanta@world-ip.com

Keith A. Rabenberg
Senniger Powers LLP
100 North Broadway
17th Floor
St. Louis, MO 63102
krabenberg@senniger.com

s/ Michael R. Limrick

An Attorney for Simon Property Group, L.P.